

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

**THE HONOURABLE MR. JUSTICE K.S.RADHAKRISHNAN
&
THE HONOURABLE MR. JUSTICE M.N.KRISHNAN**

FRIDAY, THE 5TH JANUARY 2007 / 15TH PAUSHA 1928

MFA.No. 230 of 2001()

OPMV.2057/1995 of MOTOR ACCIDENT CLAIMS TRIBUNAL, PALA DT.28.9.2000
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APPELLANT: PETITIONER

**K.K.KURUVILLA, KOKKATTU HOUSE,
MALLIKASSERY P.O., POOVARANI.**

**BY ADV. SRI.MATHEW JOHN (K)
SRI.BABY THOMAS**

RESPONDENTS: RESPONDENTS

- 1. SAJU, S/O.KOCHUNNI, 13/1881,
MADATHILPARAMBIL HOUSE,
CHULLICKAL, KOCHI 5.**
- 2. KUNJUMON, S/O.SANKARAN, KOLOTH-
UMPARAMBIL VEETIL,
THOPPUMPADY KARA, MATTANCHERRY
VILLAGE, KOCHI.**
- 3. THE ORIENTAL INSURANCE CO.LTD.,
PUTHENPURACKAL CHAMBERS,
COCHIN- 682 006.**

BY ADV. SRI.MATHEWS JACOB

**THIS MISC. FIRST APPEAL HAVING BEEN FINALLY HEARD
ON 05/01/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

K.S. RADHAKRISHNAN & M.N. KRISHNAN, JJ.

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Dated this the 5th day of January, 2007.

J U D G M E N T

Krishnan,J.

This is an appeal preferred against the award of the Motor Accidents Claims Tribunal, Pala in O.P.(MV) 2057/95. The claimant herein sustained injuries in a road accident and his motorcar bearing Reg. No.KRK 2039 suffered damages on account of the accident. The Tribunal in paragraph 20 of the award refers to the various documents produced by the claimant regarding the damages sustained by the car and also various repair charges, bills etc. But, in paragraph 24 it is stated that the said claim is not there in the petition. The Tribunal held that the petitioner is precluded from claiming any damages to the vehicle since the petition has not been filed for that purpose and that the petition has not been amended accordingly.

2. The learned counsel for the Insurance Company also submits that there is a prayer in the petition with respect to the damages sustained to the car. Or in other words, it is a composite

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application claiming compensation for the injuries sustained in the accident as well as damages sustained to the car. Therefore, the Tribunal has erred in not considering the request of the claimant regarding damages to the car. Since, the Tribunal has not considered the model, age etc. of the car and other factors such as survey report etc. independently, it is necessary that the matter has to go back to the Tribunal for considering those aspects.

Therefore, the M.F.A. is partly allowed and disposed of as follows:

(1) The claim regarding personal injuries is sustained.

(2) The Tribunal is directed to consider the question of damages sustained to the car in the light of the documents produced before the Tribunal and both sides are permitted to adduce evidence with respect to the same. Parties are directed to appear before the Tribunal on 15/2/2007.

K.S. RADHAKRISHNAN, JUDGE.

M.N. KRISHNAN, JUDGE.

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**K.S. RADHAKRISHNAN &
M.N. KRISHNAN, JJ.**

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J U D G M E N T

5th January, 2007.